



CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

February 21, 1986

Peter R. Sarasohn, Esquire
Ravin, Sarasohn, Cook, Baumgarten & Fisch
80 Main Street
West Orange, New Jersey 07052

Re: Duane Marine Site, Perth Amboy, New Jersey
Administrative Order No. II-CERCLA-50107
Respondent G&W Laboratories, Inc.

Dear Mr. Sarasohn:

This letter is to serve as written confirmation from EPA of our determination respecting your request, made on behalf of your client, G&W Laboratories, Inc. ("G&W"), by letter dated May 7, 1985.

G&W has petitioned for the withdrawal of our administrative order, named in the caption above. That order was one of three that we issued under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 99601 et seq., to G&W and to approximately 50 other parties, in connection with a removal action at the Duane Marine site.

EPA does not agree to withdraw its order naming G&W as a responsible party for the removal action on the basis of G&W's liability as a generator of waste sent to the Duane Marine facility. Nonetheless, we do agree with the part of your petition which seeks to characterize a portion of G&W's waste as non-hazardous for CERCLA purposes. Accordingly, we are revising our waste-in list to reflect a reduction of the amount of waste attributable to G&W, as follows:

- (1) 550 gallons of waste identified as waste type 10 on the NJ special waste manifest No. A 48137, dated 11/02/78, are to be removed from the waste-in list.
- (2) 1265 gallons of waste identified as waste type 18 on the above-mentioned manifest will remain on the waste-in list. EPA is not persuaded that this waste is not a hazardous waste for CERCLA purposes.

I would also like to advise you of two other facts of immediate interest to your client. First, you will be receiving, under separate cover, a copy of a letter issued to all named parties to the three Duane Marine orders. The letter is dated February 19, 1986, and it amends the orders to reflect a change in the date for the completion of the removal work subject to our orders. The work is to be completed by close of business on March 15, 1986.

Second, according to our records, G&W is not among the respondents, represented by the Duane Marine Steering Committee, who have given EPA written notification of commitment to perform the removal work and who have contributed to the cleanup effort. To the contrary, G&W is one of a small number of respondents to the orders who have not committed to perform the work. As a consequence of failure to participate in the work effort, these parties are at present being considered recalcitrant parties by EPA.

Please be advised that this failure constitutes a violation of the order, which may render G&W liable for imposition of civil penalties in the amount of \$5,000.00 per day, as provided in §106(b) of CERCLA, 42 U.S.C. §9606(b). In addition, failure to comply with the terms of the order may subject G&W to cost recovery and punitive damages of up to three times the amount of any costs incurred by EPA, as provided in §§107(a) and 107(c)(3) of CERCLA, 42 U.S.C. §§9607 (a) and 9607 (c)(3).

Moreover, when EPA next considers what enforcement actions may be appropriate in the future in connection with the Duane Marine site, the agency, pursuant to its CERCLA Settlement Policy, will consider the good faith (or lack of good faith) shown by each responsible party, including its record of compliance with the terms of the order currently in force.

Finally, enclosed you will find a copy of the December, 1984, issue of Penthouse magazine, with the article entitled "Mafia Wasteland" describing some lurid episodes of alleged misconduct at the Duane Marine facility. If you wish to discuss any of these matters, please contact me immediately at (212) 264-8067.

Sincerely,

Margaret Thompson
Assistant Regional Counsel
NJ Superfund Branch
Office of Regional Counsel

cc: John P. Lynch, Jr., Duane Marine Steering Committee

bcc: Janet Feldstein, 2ERRD-SIC (NJ)